

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Participation,” Iowa Administrative Code.

This amendment reflects the action of the Iowa General Assembly directing the Department to provide Medicaid coverage to all eligible children for whom federal funding is available. The Children’s Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive Medicaid coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States. The rule is also amended to conform to current formatting standards and to clarify the conditions of eligibility.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on June 10, 2009.

The Department finds that notice and public participation are impracticable in that the legislative directive to add coverage is effective on July 1, 2009, and there is not sufficient time to allow for public participation before that date. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit by extending health coverage to children who were previously ineligible. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7934B** to allow for public comment.

This amendment is intended to implement Public Law 111-3 and Iowa Code chapter 249A as amended by 2009 Iowa Acts, Senate File 389, section 13.

This amendment becomes effective on July 1, 2009.

The following amendment is adopted.

Amend paragraph **75.11(2)“a”** as follows:

*a.* To be eligible for Medicaid a person must be one of the following:

(1) A citizen or national of the United States.  
 (2) A qualified alien ~~as defined in subrule 75.11(1)~~ residing in the United States ~~prior to~~ before August 22, 1996.

(3) ~~A qualified An alien child under the age of 19 who entered the United States on or after August 22, 1996, and who is:~~ lawfully admitted for permanent residence under the Immigration and Nationality Act.

• ~~—A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act;~~

• ~~—Granted asylum under Section 208 of the Immigration and Nationality Act;~~

• ~~—An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act; or~~

• ~~—A veteran with a discharge characterized as an honorable discharge and not on account of alienage, an alien who is on active duty in the Armed Forces of the United States other than active duty for training, or the veteran’s spouse or unmarried dependent child.~~

(4) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act.

(5) An alien who has been granted asylum under Section 208 of the Immigration and Nationality Act.

(6) An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act.

(7) A qualified alien veteran who has an honorable discharge that is not due to alienage.

(8) A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.

(9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph (7) or (8), including a surviving spouse who has not remarried.

~~(4) (10)~~ A qualified alien who ~~entered the United States on or after August 22, 1996, and who~~ has resided in the United States for a period of at least five years.

[Filed Emergency 6/12/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.